

III. REMARKS

Claims 1 and 3-8 are pending in this application. By this amendment, claims 1 and 5-8 have been amended. Applicants do not acquiesce in the correctness of the rejections and reserve the right to present specific arguments regarding any rejected claims not specifically addressed. Further, Applicants reserve the right to pursue the full scope of the subject matter of the original claims in a subsequent patent application that claims priority to the instant application. Reconsideration in view of the following remarks is respectfully requested.

In the Office Action, claim 8 is objected to for alleged informalities. Claims 1 and 7-8 are rejected under 35 U.S.C. §103(a) as allegedly being anticipated by Dutta *et al.* (U.S. Patent No. 6,546,423 B1), hereafter “Dutta” in view of Fielding *et al.* (Fielding, RFC 2616), hereafter “Fielding.” Claim 2 is rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Dutta in view of Fielding and further in view of Starnes *et al.* (U.S. Patent No. 6,510,469 B1), hereafter “Starnes.” Claim 3 is rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Dutta in view of Fielding and Starnes and further in view of Pavan (U.S. Patent No. 6,801,943 B1), hereafter “Pavan.” Claim 4 is rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Dutta in view of Fielding, Starnes and Pavan and further in view of Millard (U.S. Patent Pub. No. 2002/0087282 A1), hereafter “Millard,” and further in view of Subramanian *et al.* (U.S. Patent Pub. No. 2002/0194211 A1). Claim 5 is rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Dutta in view of Fielding, Starnes, Pavan, Millard and Subramanian and further in view of Colby *et al.* (U.S. Patent No. 6,625,643 B1).

A. OBJECTION TO CLAIM 8

The Office has objected to claim 8 for alleged informalities. Applicants have amended claim 8 to distinguish the initial prepositional phrase from the computer readable medium. In addition the Office is requested that Applicants interpret the computer readable medium of claim 8. Applicants respectfully that the computer readable medium of claim 8 is intended to be limited to statutory embodiments thereof. Accordingly, Applicants respectfully request that the objection be withdrawn.

B. REJECTION OF CLAIMS 1 AND 3-6 UNDER 35 U.S.C. §112, SECOND PARAGRAPH

The Office has indicated that claims 1 and 3-6 are indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Specifically, the Office objects to use of the term “optionally” in claim 1. Applicants have amended claim 1 to remove the term. Accordingly, Applicants request withdrawal of the rejection by the Office.

C. REJECTION OF CLAIMS 1, 7 AND 8 UNDER 35 U.S.C. §103(a)

With regard to the 35 U.S.C. §103(a) rejection of claims 1, 7 and 8 over Dutta and Fielding, Applicants assert that the references cited by the Office fail to teach or suggest each and every feature of the claimed invention. For example, with respect to independent claims 1, 7 and 8, Applicants submit that the cited references fail to teach or suggest, *inter alia*, that every server out of said plurality of individual servers is adapted to issue issuing load balancing instructions to said NCS by passing said load balancing instructions directly to said NCS in a NCS-control

HTTP header. In contrast, the interactions in Dutta occur through and are facilitated by a firewall. Accordingly, Applicants respectfully request that the Office withdraw its rejection.

D. OTHER REJECTIONS OF CLAIMS UNDER 35 U.S.C. §103(a)

With regard to the 35 U.S.C. §103(a) rejection of claims 3-6 over Dutta in view of Fielding and Pavan, Applicants continue to assert that there is no motivation or suggestion to combine the Dutta and Pavan references. Specifically, Dutta performs load balancing, that is, performing some analysis on a packet of information received from a remote location and forwarding the packet to a selected server out of a number of servers for processing. Col. 1, lines 15-18. To this extent, the purpose of Dutta is correctly distributing packets among the servers. In contrast, Pavan discloses a network scheduler that schedules the use of a single shared resource such as a physical communication channel. Col. 4, lines 5-10. To this extent, while Dutta distributes a single packet among multiple servers, Pavan coordinates multiple communications on a single channel. As such, Pavan is in a field of art that is non-analogous to that of Dutta. Furthermore, as the goal of Pavan is correctly scheduling an order of task performance on a single resource, it does not solve the same problem as Dutta, i.e. to balance resources. Thus, there is no motivation in the references themselves or in the art for combining the references. Accordingly, Applicants submit that the Office has failed to prove a *prima facie* case of obviousness and request that the Office's rejection be withdrawn.

With respect to newly amended claim 5, Applicants respectfully submit that the cited references fail to teach or suggest a share directive aimed at enabling a sharing of information from a particular source within all members of said plurality of individual servers and said NCS

by depositing an HTTP header in the NCS that is added to all subsequent requests having a matching filter that corresponds to the source that are issued from the NCS to any server. Specifically, to the extent that the cited references teach a share directive, they do not teach or suggest that it enables sharing of information that is based on the source of the information. Furthermore, the cited references do not teach or suggest that this information is culled from other information using a filter that corresponds to the source. Furthermore, with respect to newly amended claim 6, Applicants respectfully submit that the cited references fail to teach or suggest a lock directive aimed at locking resources identified by said filter to prevent service of the resources from being performed by any of the plurality of individual servers. Specifically, to the extent that the cited references may teach or suggest a lock directive, the lock directive is not aimed at locking resources identified by a source based filter to prevent service of resources by any server. Accordingly, Applicants respectfully request that the Office withdraw its rejection.

With regard to the Office's other arguments regarding dependent claims, Applicants herein incorporate the arguments presented above with respect to independent claims listed above. In addition, Applicants submit that all dependant claims are allowable based on their own distinct features. However, for brevity, Applicants will forego addressing each of these rejections individually, but reserves the right to do so should it become necessary. Accordingly, Applicants respectfully request that the Office withdraw its rejection.

IV. CONCLUSION

In addition to the above arguments, Applicants submit that each of the pending claims is patentable for one or more additional unique features. To this extent, Applicants do not

acquiesce to the Office's interpretation of the claimed subject matter or the references used in rejecting the claimed subject matter. Additionally, Applicants do not acquiesce to the Office's combinations and modifications of the various references or the motives cited for such combinations and modifications. These features and the appropriateness of the Office's combinations and modifications have not been separately addressed herein for brevity. However, Applicants reserve the right to present such arguments in a later response should one be necessary.

In light of the above, Applicants respectfully submit that all claims are in condition for allowance. Should the Examiner require anything further to place the application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the number listed below.

Respectfully submitted,



/

Hunter E. Webb

Reg. No.: 54,593

Date: February 13, 2008

Hoffman, Warnick & D'Alessandro LLC
75 State Street, 14th Floor
Albany, New York 12207
(518) 449-0044
(518) 449-0047 (fax)

RAD/hew